

# TRANSCRIPT OF PROCEEDINGS



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## **INDEPENDENT COMMISSIONER AGAINST CORRUPTION**

### **COMMISSIONER LANDER**

### **PUBLIC HEARING - EVALUATION OF SAFEWORK SA**

### **ADELAIDE**

**2.01 PM, FRIDAY, 31 AUGUST 2018**

MS H. STANLEY appeared as counsel assisting

MR LANDER: Before I invite you to make your closing submissions, Ms Stanley, there are a few matters that I would like to address. Can I start by thanking everyone who has met with me or my team, or provided me with information to assist with this evaluation. I am grateful with the cooperation  
5 that has been offered and which I have received, particularly for the executive and staff of Safework SA. During the course of the evaluation, I have received a substantial number of documents. I am currently working with my team to carefully consider the material received. I will continue to work my way through that material in the course of preparing my final report and identifying  
10 recommendations which I would hope would assist Safework SA to advance comprehensive and effective mechanisms for preventing or minimising corruption, misconduct and maladministration in public administration.

There is some information that I've been provided during the evaluation which  
15 raises issues that should not be published in my final report. I intend to write separately to the Treasurer, the Chief Executive of the Department of Treasury and Finance and the Executive Director of Safework SA about those matters. There is also some information that I've been provided which was best dealt with by way of complaint or report to the Office of Public Integrity and that  
20 information has been dealt with accordingly. Turning now to today's closing submissions, I consider it appropriate for Ms Stanley to make her closing submissions at a public hearing to allow Safework SA staff, members of the public and interested parties to judge for themselves whether those submissions are appropriate in the light of other submissions made and documentation that I  
25 have received.

I intend to invite written submissions in reply to Ms Stanley's closing submissions and I will speak more about those submissions after I've heard Ms Stanley. I consider that in general, anything which is said at today's  
30 hearing, ought to be able to be published. I also permit today's hearing to be streamed live. Ms Stanley, I'd be grateful if you could now make your closing submissions. I'd be pleased if you could identify in those submissions the process which has been followed, risks which have been identified and some recommendations that you make.

35 MS STANLEY: Thank you, Commissioner. Commissioner, you commenced this evaluation as a result of multiple complaints and reports to the Office of Public Integrity about concerns regarding how Safework SA is functioning. As you explained during the opening hearing for this evaluation,  
40 the totality of the complaints and reports led you to think that it had become necessary to consider the wider context in which Safework SA conducts its business, and in particular, how it guards against the risks of corruption, misconduct and maladministration. The wide powers that are given to inspectors and investigators under the Work Health and Safety Act 2012 was  
45 another factor that you considered, prior to embarking on this evaluation. For

the benefit of the public I will start by outlining the provisions of the Independent Commissioner Against Corruption Act 2012 which are relevant to this evaluation. The statutory power to conduct an evaluation is provided for in section 7, subsection (1) sub numeral (d) which allows the

5 Independent Commissioner Against Corruption to evaluate the practices, policies and procedures of an inquiry agency or public authority with a view to advancing comprehensive and effective systems for preventing and minimising corruption, misconduct and maladministration in public administration. On

10 conducting an evaluation, the Commissioner may make recommendations to the inquiry agency or public authority.

In particular, you may recommend that the agency or authority change practices, policies or procedures in a specified way or review practices, policies or procedures to achieve specified outcomes. You may also recommend that

15 the agency or authority conduct, or participate in specified educational programs or educational programs designed to achieve specified outcomes. Commissioner, this evaluation, as you've said, has been considered in public and there were, in my submission, good reasons for doing so. Conducting this

20 evaluation in public has allowed members of the public, together with public officers employed throughout the state and local government, to not only observe the way in which this evaluation has been conducted but also to participate in it. This evaluation has focussed on the practices, policies and

25 procedures of the regulatory arm of Safework SA which exists to enforce the Work Health and Safety Act, through a suite of compliance tools. That is only one of the three core functions of Safework SA and as was detailed to you by Mr Martin Campbell during his oral submissions, Safework SA also has an

educator arm and a small corporate services group.

Before I continue, it is important to again emphasise that this has not been an

30 investigation in to corruption, misconduct or maladministration, nor has it looked at the conduct of individuals or at particular events. For the benefit of both you and the public, I will now outline the process by which the evaluation has been conducted. The evaluation commenced on the 17 May 2018 and on that date, you wrote to Mr Campbell requesting documents relevant to the

35 scope of the evaluation. On the 22 May, you invited the staff from Safework SA to contribute to the evaluation by way of written submission. In response, you received 13 written submissions, most of which were provided on a confidential basis. On the 1 June 2018, I made my opening submissions at the first public hearing for the evaluation. You then invited members of the

40 public and stakeholders with an interest in the operations of Safework SA to make written submissions about matters relevant to the scope of the evaluation. On the 5 June, you wrote to more than 50 of Safework SA's stakeholders, notifying them of the opportunity to make a written submission.

45 You received 26 written submissions from members of the public and

interested parties, including from unions, industry bodies and former staff of Safework SA. You have made available many of those written submissions on the ICAC website, though some have understandably been redacted to remove references to individuals or particular events, comments or opinions that might be considered defamatory or critical without foundation, and irrelevant material. You have only published the submissions which are relevant to the scope of the evaluation and you have - for which you have received consent to publish. As you mentioned, the nature of some of the submissions meant that they are best dealt with by way of complaint or report to public - to the Office of Public Integrity and you have not published those submissions.

MR LANDER: Could I just interrupt you, if you don't mind, just to explain. You have set out accurately the way in which I've dealt with submissions that I've received but I would like to make it clear that in preparing my final report, my evaluation team and I will consider all of the material that has been received, including the material that has been redacted or not so far published.

MS STANLEY: Thank you. Commissioner, on the 1 July, machinery of government changes came in to effect causing Safework SA to transfer from the Attorney General's Department to the Department of Treasury and Finance. Now this change meant that the public authority which was the subject of the evaluation became the Chief Executive of the Department of Treasury and Finance, rather than the Chief Executive of the Attorney General's Department. When you commenced the evaluation, it was an evaluation of the practices, policies and procedures of the Chief Executive of the Attorney General's Department, insofar as it related to the regulatory arm of Safework SA. Now obviously on 1 July 2018, that evaluation became an evaluation of the Chief Executive of the Department of Treasury and Finance and as a consequence of the transition to the Department of Treasury and Finance, Safework SA ultimately adopted some new systems, policies and procedures.

During June and July, you and your team spoke at length, with approximately 45 staff of Safework SA, most of whom were assigned to the regulatory arm. Your team also met with representatives for the workplace regulators in Victoria and Western Australia and visited the government explosive reserves, which is administered by Safework SA. During the first two weeks of July, you had the benefit of oral submissions from a number of people and comprehensive submissions on behalf of the Safework SA executive. On 23 July, you received a written submission from the Public Service Association of South Australia addressing questions taken on notice during the public hearing process. And on 30 July, you received a written submission from the Executive Director of Safework SA. You have made both of those submissions available on the ICAC website.

I've had the opportunity to consider all of the submissions and much of the

other material, along with the benefit of working with your team, so as to garner a comprehensive understanding of Safework SA. I've also had the opportunity to consider publications by other integrity organisations such as the Independent Broad-based Anti-Corruption Commission of Victoria's report in to corruption risks associated with public regulatory authorities. This IBAC report provided some useful background in to the risks that face regulators and I've drawn on some of the recommendations in that report, in forming views as to how best safeguard Safework SA from the risks of corruption, misconduct and maladministration. I want to highlight at the outset that this evaluation has not been completed in a vacuum. That is an important observation because Safework SA has already been the subject of a number of reviews and audits in recent times. This includes an inquiry in to the occupational health and safety responsibilities of Safework SA, which was conducted by the parliamentary committee on occupational safety, rehabilitation and compensation in 2013.

Two reviews have been conducted pursuant to section 277 of the Work Health and Safety Act. Comprehensive audits have been completed by Price Waterhouse Coopers and a detailed review of the investigation and prosecution arrangements at Safework SA, by special counsel from the Crown Solicitors' Office has also been conducted. Those audits and reviews have therefore been drawn upon where relevant, in this evaluation.

MR LANDER: The material that I've read, which was provided to me by Safework SA seems to suggested that many of the issues that have been identified by my team and by yourself, during this evaluation, were also identified in those earlier reviews and audits. Is that your opinion as well?

MS STANLEY: Yes, Commissioner it is. And I think the implementation of those recommendations from previous audits and reviews appears to have been insufficient in some way. Many of the same issues observed during those reviews, have come up again in your evaluation. In my view, that may be because of poor implementation approach, such as a lack of documentation or training. It may be because of the impact of a change resistant culture and a lack of continuity, as well as changing strategic direction resulting from continual changes in leadership.

MR LANDER: Yes.

MS STANLEY: In the same vein as this evaluation being conducted with open eyes, I am keenly aware of the resource issues facing Safework SA and the proposed budget cuts to the organisation. This is obviously going to impact on Safework SA's ability to actually implement your ultimate recommendations. Now whilst I highlight that as an issue, I'm of the view that the proposed recommendations, if implemented prudently, are likely to increase the overall capacity of Safework SA and ultimately result in better

functioning of the organisation, which will make it better able to withstand those budgetary pressures in to the future. By way of a general comment, I take the opportunity to express it clearly, that it is my impression that Safework SA staff take their roles very seriously.

5

MR LANDER: Yes.

MS STANLEY: Overall, they are genuinely passionate about the safety of workers. However, it is clear to me that the workforce is divided. This divide is predominantly between managers and staff. It's also across and within teams. It has become evident that the current culture of the regulator arm of Safework SA is dysfunctional. This cultural dysfunction has over time eroded employee engagement and morale. But the executive and the dedicated staff are, in my view, working hard to overcome this workplace culture and improve it. Central to resolving the cultural issues in that organisation, is effective communication. Communication in Safework needs to improve. It is not isolated to any one person or team, it is across the organisation as a whole. Whilst the current executive is generally well regarded, the organisation still remains in an identity crisis. The long term nature and continuous change in the organisation has negatively impacted the workplace culture.

I'm of the view, and this was supported by Mr Campbell, that as a general cohort, the organisation is suffering from change fatigue, having been in the process of change for many years and having had numerous leaders in recent times. Change within Safework SA has occurred for many reasons. For example, machinery of government changes have caused Safework SA to transition between three government departments in the last four years and with each new government department there have been new expectations on how the organisation should operate and often, a new organisational structure. Amendments to legislation have also impacted Safework SA. The most significant change in this regard, was the repeal of the Occupational Health, Safety and Welfare Act 1986 and the commencement of the Work, Health and Safety Act. It is no secret that the differing priorities of Safework SA's various members of the executive and other persons in management positions has also contributed to the sense of instability among staff, as have restructures within teams and throughout the whole organisation.

Budget pressures, advances in technology, ministerial policies, ministerial priorities and external reviews and audits have also all played a part. The perception of change weariness among inspectors seems to relate to the uncertainty associated with each impending review or restructure, as the powers and functions of inspectors have remained fairly constant since the introduction of the Work Health and Safety Act.

45 The manner in which SafeWork SA implements change is relevant to this

evaluation because it may give rise to risks of corruption, misconduct and maladministration. Improper implementation of change can result in the creation of poor workplace cultures, reduction in the quality of work, inappropriate expenditure, increased organisational cost and, potentially, less efficient work practices.

Current change within SafeWork SA is being driven through a formal change program. Mr Campbell is positive about how his current change program is being received by the majority of his staff. During this evaluation staff have expressed that positive change is happening within SafeWork SA. However, that view is not shared by all and there remains some disunity and resistance.

Critical to the success of the current change program is for Mr Campbell to continue to openly engage with and support staff through change. Despite its history of ongoing change and a workplace which is crying out for stability, I consider that SafeWork SA would benefit from further change. Such change is necessary to address the corruption, misconduct and maladministration risks which have been identified throughout the evaluation and to ensure that SafeWork SA is able to fulfil its function as the Regulator.

Commissioner, before I start talking to you more broadly about my recommendations, I want to briefly comment on the Public Service Association. You have had the benefit of hearing from the Public Service Association in the course of this evaluation. You have been advised that 73 per cent of the Inspectorate are members of the PSA.

I have some concerns regarding the impact of union involvement in the everyday functioning of SafeWork SA and I'm conscious that the need for the PSA to be consulted with has the capacity to slow down progress. That being said, I thought that Mr Kitchin demonstrated he was open to forming a closer relationship with SafeWork SA executive in order to streamline that consultation process and to ensure that they could work together to achieve the ultimate outcome. I strongly encourage Mr Campbell and Mr Kitchin to work together to achieve that relationship.

COMMISSIONER: Yes, I agree.

MS STANLEY: Having made that observation, it now leads me to my first proposed recommendation, a recommendation which in my view sits at the heart of the way forward for SafeWork SA. It is that SafeWork SA develop and implement as a matter of priority a strategic plan. SafeWork SA's executive have recently set a new vision, making South Australian workplaces safe, and have established four goals to assist in achieving that vision. The new vision and goals were articulated in SafeWork SA's Strategic Road Map, which was released in January of 2018.

Despite the existence of a new vision and organisational goals, there remain differing views among staff about the organisation's purpose and its primary objectives and goals. Although the vision and goals have been set, SafeWork SA does not currently have a strategic plan. Mr Campbell said in his oral submissions that since he has taken over the organisation he has implemented the road map with a view that a strategic plan would eventually follow. The previous strategic plan was rescinded in place of the road map.

10 The Strategic Road Map identifies key change projects to be achieved and delivered by June 2019. Whilst it is accepted that there are legitimate reasons to have formed the view that a strategic plan could come at a later date, predominantly to enable change projects to be finalised, in practice the failure to have one in place has had a trickle-down effect on the organisation. Without clear direction there's an inability for those along the chain of command to lead with a clear message, to develop policy and procedure that adheres to that message. As a result, an organisation which is already by its current structure very siloed is bordering on disparate and confused. Put simply, the workplace of SafeWork SA has been attempting for many years to keep the wheels turning when no-one was sure who the driver was or in what vehicle the direction was headed. The setting and implementation of a clear strategic plan will set the foundation for resolving this issue.

25 The purpose of the strategic plan is twofold. It will provide clarity on the direction and priorities and how those link to the vision that has already been set. It will also give a clear end point to change. It will give staff, labouring as they are under a sense of constant change, a target to reach; some idea of when change stops and consolidation begins.

30 Whilst setting the strategic priorities for the organisation, SafeWork SA should complete a full-scale functional analysis of the work the organisation undertakes, with a view to identifying the core principles and core business functions of the organisation. This functional analysis should assist leadership to determine how best to focus their resources and set achievable and relevant strategic goals and, if appropriate, work with government to reallocate aspects of the business which are not relevant to its core.

40 The strategic plan will be supported by the recently adopted SafeWork SA values released in July 2018. Together, the plan and the values will assist in establishing practices to address the deep cultural issues in the organisation. A strategic plan is a cornerstone for any organisation. Whilst, in my submission, Mr Campbell cannot be criticised for delaying the implementation of one, information collected during this evaluation has demonstrated that the previous risk of adopting one too quickly is now far outweighed by the risk of not having one in place. The risks of corruption, misconduct and



maladministration are heightened significantly when staff within the organisation are operating with unclear purposes and priorities, and in my submission this must be addressed as a matter of urgency.

5 I note that this evaluation has focused on the regulatory arm. However, one topic which has arisen on multiple occasions during this review is the split between the Educator and the Regulator which occurred in 2016 following consultation by the then Attorney-General. The split was intended to encourage persons conducting a business or undertaking, often referred to as  
10 PCBUs, to be open and transparent with SafeWork SA about concerns or risks, without the fear that in doing so compliance action would be taken. As such, an educator role was created, staffed with work health and safety representatives who are not appointed inspectors under the Act and do not have compliance and enforcement powers.

15 The Work Health and Safety Act does not provide for the role of the Educator. In practice it has simply been that the functions of the Regulator as set out in section 152 of the Act, in particular the functions to promote, educate and train on matters relating to work health and safety and to provide advice and  
20 information on work health and safety, are being undertaken by the Educator as a delegate of the Regulator.

The legal position that flows is that the Regulator is still the repository of the powers and will be deemed to know whatever information the Educator as his  
25 delegate has actual knowledge of. During the course of the evaluation it became apparent that there was no formal process through which the Educator can advise the Regulator of safety risks or issues they have become aware of, either by personal observation or by information provided by a PCBU.

30 Not only was there no formal process, there was an understanding and acceptance at the ground level of the organisation that sharing such knowledge would be contrary to the role the Educator was developed to play. That is, the Educator sees PCBUs as their client and was of the view that to share information with the Regulator would be to breach some sense of  
35 confidentiality within that client relationship.

The practical reality of the circumstance is that the Educator could know about a serious safety risk, not inform the Regulator, and that an incident could occur. The PCBU, in trying to avoid liability for the incident, may well point to the  
40 advice of the Educator. From the perspective of both workers and the public, one can understand that such a situation is untenable. The regulator must be advised of concerns of this nature because otherwise the object of the Act to keep workers safe is thwarted. There should not be fear associated with contacting Safework SA for advice and there should not be an ability for  
45 PCBUs to avoid possible compliance action by seeking out the educator as a

toothless tiger for guidance.

5 I understand from Mr Campbell, that it was never intended to be the case that  
there would be no communication between the two arms, however the way in  
which the educator arm has been implemented and developed, means that to  
have that communication would go against the core understanding of the staff  
within that arm, as well as the way in which the educator has been explained to  
the PCBUs and to the public. In addition, since the restructure, staff in the  
10 educator have been prevented from undertaking site visits with staff in the  
regulator, as it would be - it was perceived to be inappropriate for them to be  
seen together on site. These types of practices further enforce the divide  
between the two arms. Staff have also expressed concerns of an inconsistent  
approach taken by the educator and regulator in relation to the same work sites.  
That is a significant risk for all involved.

15 I stress that I recognise that the educator is performing a very important  
function. It increases the community awareness about work health and safety  
and it provides practical and timely information, resources and training about  
those matters. In light of the need for stability, I do not recommend that  
20 Safework SA undertake another restructure of the organisation to mitigate the  
risks that I've highlighted. I consider that those risks can be adequately  
addressed through improved communication practices between the educator  
and the regulator. I therefore recommend that Safework SA revise its position  
regarding communication between the educator and the regulator, to ensure  
25 that the regulator is provided with information about work health and safety  
risks or potential breaches of the Work Health and Safety Act. There must also  
be communication from the regulator to the educator that will assist the  
educator to perform its functions, including its decision-making about  
educational campaigns.

30 Safework SA's revised position then needs to be communicated to all staff,  
PCBUs and to the public. Should staff require further training, that training  
should be provided. I'd like to turn now to discuss Safework SA's governance  
framework. By that, I mean the framework of rules, relationships, systems and  
35 processes by which Safework SA is directed, controlled and held to account  
and whereby authority within the organisation is exercised and maintained.  
Good governance adds value to the operations of any public sector agency. It  
reduces financial business and operational risk, it strengthens public confidence  
and it assists in the detection and prevention of fraudulent dishonest and  
40 unethical behaviour. Therefore, the establishment and maintenance of an  
appropriate government framework minimises the risk of corruption,  
misconduct and maladministration.

45 MR LANDER: Yes.

MS STANLEY: Safework SA does not have a well-established or clearly articulated governance framework. In this regard, Mr Campbell stated, in his submission, that the governance of Safework SA is better today than a year ago but I acknowledge it is not at the standard I would expect of an agency of this maturity and we are essentially starting from a basic level. I am more comfortable now, that we have some framework and controls around governance and risk, but I acknowledge that we have a long way to go before it is adequate and fully functioning. In reality, an ad hoc approach is taken to systems, structures and documents which are currently in place to support good governance. They are not integrated in to an overarching governance framework and some of the system structures and documents which do exist could certainly be improved.

My earlier recommendation to adopt a strategic plan is complemented by my next proposed recommendation that Safework SA creates, implements and maintains a complete governance framework. This would be done by establishing all of the systems, structures and documents necessary for good governance, documenting the way in which each of those systems, structures and documents interact with the other. Communicating who has responsibilities in relation to each component of the governance framework and being accountable for the ongoing operation of the governance framework. The strategic plan would of course be one component within Safework SA's governance framework.

MR LANDER: Yes.

MS STANLEY: Another component of the governance framework would be Safework SA's policies and procedures. During the course of this evaluation, you have been provided with a significant number of policies, procedures, model operating procedures, standard operating procedures, operational guidelines, safe work practices, technical notes, codes, manuals and work health and safety information sheets. Although this volume of documents does exist, there's a definite lack of clarity about what state each document is in, be it draft, current or no longer applicable and who it is said to apply to. The way in which the policy documents contributed to Safework SA's vision and purpose is also unclear. The hierarchy of the policy documents is unknown and the number and type of documents relevant to any particular issue is difficult to determine. As you may recall, Mr Campbell himself described the state of Safework SA's policies as voluminous, confusing and in need of a good sorting.

MR LANDER: Yes.

MS STANLEY: He went on to say, so once we've done that, whatever is left that is relevant to how we work, we can update to make sure they're accurate

and then we need to put in a controlled mechanism to make sure that they're reviewed regularly and effectively as part of a proper document management system.

5 MR LANDER: Have you made any other observations in respect of the policies and procedures at Safework SA? Apart from the ones to which you've just referred?

MS STANLEY: Yes. An overall impression that I've formed is that it's not necessarily clear to what extent staff rely upon or adhere to the policies which are said to be in place. The organisation requires the creation of a policy framework which will provide clarity as to what procedures apply to whom, what is expected of staff from an organisational perspective, as well as ensuring policies are reviewed and updated on a structured basis. The widespread use of policy documents is necessary for establishing consistent practices throughout the organisation.

MR LANDER: Yes.

20 MS STANLEY: The content and the number of policy documents applicable to an individual inspector appears to differ depending on which team they fall in to. Consequently, I imagine it would be difficult for an inspector from one team to transition over to another team.

25 MR LANDER: Yes.

MS STANLEY: These inconsistent practices between teams have developed because of a team-centric approach by Safework SA, for the preparation of these policy documents. This makes further - this approach further enhances the sense that Safework SA operates in a silo, and makes it more difficult to identify inappropriate behaviour which reduces the likelihood of detection of corruption, misconduct and maladministration. The team-centric approach to the preparation of policies and procedures must be broken down through the implementation of a framework that encourages interaction between teams and ensures that all policies and procedures are derived from the executive with a strategic vision driving them, rather than being adopted on the fly to suit the immediate needs of individual teams.

I feel it important to highlight that the lack - the issue with the lack of procedure goes directly to the exercise of regulatory powers. The failure to have a policy framework can lead to a lack of understanding of powers and indeed inappropriate or misuse of powers. I've previously described the powers afforded to inspectors as being near unfettered and I stand by that description. And the lack of understanding of how to lawfully exercise these powers risks much, including failed prosecutions.

MR LANDER: Yes.

5 MS STANLEY: I will outline to you shortly, Commissioner, the proposed policy framework but before doing so, I want to provide you with some additional information about the content of policy documents.

MR LANDER: Yes.

10 MS STANLEY: There's material before me which suggests that in practice, there is difficulty controlling who is able to edit approved policy documents. Meaning there is no guarantee that an approved document contains only the approved content. There's also a tension between ensuring that policy documents are prescriptive and allowing sufficient scope for staff to exercise  
15 sound judgment based on their skill and expertise. During the course of the evaluation your team has been informed that certain individuals have the mindset that they cannot do the work if they are not provided with a clear step-by-step instruction. In contrast, your team has also been informed that the policy documents, particularly the model operating procedures and standard  
20 operating procedures, have been over-engineered. This is a matter that SafeWork SA are going to need to resolve.

Also of concern whilst reviewing the material you've been provided, I've identified multiple policy documents which have not been reviewed for at least  
25 five years. As Mr Campbell acknowledged, SafeWork SA needs a system for the regular review of its policy documents. Once such a system has been established, I submit that all existing policy documents should be reviewed to ensure that they comply with all the legislative requirements, are accurate and relevant, are clear and easy to follow, define abbreviations and technical terms,  
30 are consistent with other policy documents, identify precisely to whom the particular policy document applies, and lists all related policy documents to enable a staff member to locate all policy documents applicable to a particular topic.

35 I acknowledge that Mr Campbell, and in particular the newly developed Operational and Legal Support Team, are currently in the process of trying to update and review existing policies and procedures. However, doing so now, before there's a governance framework and a policy framework in place, runs the risk of double handling, the creation of too many documents, disjointed  
40 work practices and further short-term change.

Fixing the situation on that ground level is just a bandaid solution. Any resources currently focused on the updating of individual policy documents should be diverted to the development of the governance framework and policy  
45 framework as a matter of priority. Once these frameworks have been set, then

it will be appropriate for the updating of individual policy documents to occur.

COMMISSIONER: What do you suggest the policy framework should include?

5

MS STANLEY: It should be a comprehensive policy framework, Commissioner. It should detail the process for the identification, creation, consultation, approval and implementation of every policy document. It should establish a system for the regular review of those documents. It should set out the rules regarding the storage of and the access to the policy documents. It also needs to identify the hierarchy of the policy documents and how they speak to each other. It also should provide who's responsible for each task specified in a policy framework and who has authority to approve new policy frameworks, to revise them and to implement changes to them.

15

COMMISSIONER: You need the policy documents to speak to each other, don't you, and so they have some coherence amongst themselves?

MS STANLEY: That's exactly right, and you need to have control over who has access to change them, otherwise you end up in the situation that SafeWork SA currently face, that you don't know the policy document has been altered.

20

COMMISSIONER: Yes.

MS STANLEY: As I've mentioned, there are also problems with accessibility to the policy documents. At the moment they're stored in various locations, including a network drive, and there's no one source from which all current policy documents can be obtained. There's also no one system controlling the addition of documents to the current network drive. What is of great concern to me is that some staff say they would not be able to point to all of the policy documents applicable to their role.

30

To assist in addressing those deficiencies associated with the accessibility of the policy documents, I recommend that SafeWork SA's current policy documents be maintained and stored together in one location which can be accessed by all staff. The location in which they're stored should have an effective search engine to assist staff to locate relevant documents. Old versions and draft versions of policy documents should be stored elsewhere.

35

Moving on from that overarching framework to the more specific, it's important to highlight that the scope of work undertaken by SafeWork SA is complex and diverse, in fact I think more complex and diverse than people recognise.

40

COMMISSIONER: Yes.

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MS STANLEY: In addition to administering the Work Health and Safety Act, SafeWork SA also administers or exercises powers and functions under various other Acts and regulations, including by example the Daylight Savings Act, the Shop Trading Hours Act, the Long Service Leave Act, the Dangerous Substances Act and the Explosives Act, and that's just to name a few.

Although SafeWork SA's powers and functions are governed by legislation, there is scope for SafeWork SA to determine the way it deals with matters that are brought to its attention. In the current environment of finite resources, in my submission the decisions that SafeWork SA make to this regard are important.

The staff in the help centre, which is part of the Educator arm, are usually the first point of contact with SafeWork SA. Those staff members have been directed to receive and record all matters that are brought to their attention. Team leaders within the Regulator then make decisions as to how to manage and allocate those matters to their team. Staff have observed that this "take everything" approach may not be the best use of the organisation's limited resources and, with pending savings targets, some staff consider that this will be an unsustainable model to maintain.

SafeWork SA needs to clarify for the public what action it will take for certain risks, incidents and complaints. A policy position should be adopted, based on considering data and research about work health and safety risks, which clearly steps out the process for referring matters where appropriate, including where a matter should be referred back to an employee, an employer or another agency.

COMMISSIONER: Yes.

MS STANLEY: Staff should understand and be trained in that procedure and the public should be made aware of it. This will allow for consistency across the organisation and also for better management of the expectations of the public, of victims, their families. There's also scope for SafeWork SA to improve its internal practices in relation to the way in which particular types of matters should be dealt with once they have been accepted as matters falling within their jurisdiction.

It became evident to me over the course of analysing SafeWork SA's practices and the history of those practices that the triaging of matters has been approached by SafeWork in a multitude of ways over the years. There is a divergence of views amongst staff as to which approach of triaging is preferable and I don't propose to outlay to you today the exact approach which should be adopted. However, I simply note that SafeWork SA may be able to improve its triaging processes by learning from the approaches adopted by

interstate regulators and by ensuring that its triaging practices are consistently applied throughout the organisation.

5 The current divergent practices in relation to the triaging of matters, as well as a lack of oversight in triaging decision-making, increase the risks of corruption, misconduct and maladministration, because without uniformity and oversight it's easier for a matter to be triaged inappropriately without detection.

10 In the course of the evaluation I have considered the nature of the powers exercised by SafeWork SA. As I mentioned in my opening submissions, SafeWork SA is tasked with protecting workers and others through the elimination or minimisation of risks arising from work, as well as securing compliance with the duties set out in the Work Health and Safety Act.

15 The Regulator has a number of important functions, including powers of compulsion in order to monitor or enforce compliance with the Act, prosecuting those who fail to comply with the Act, and appointing inspectors to investigate and secure compliance. As we've discussed, inspectors have a very broad power of entry and can enter any workplace without notice in order to  
20 exercise compliance powers. Once on site, they have broad powers to enforce compliance.

25 Individual inspectors, along with the Regulator, can investigate contraventions of the Act and prosecute PCBUs for breaches of the Act. Aside from prosecution, an inspector can issue a variety of notices to enforce compliance. They also may, in lieu of prosecuting a person, accept an enforceable work health and safety undertaking. An inspector or the Regulator may also initiate proceedings for breach of work health and safety penalty provisions. Generally these are financial sanctions for breaching a right of entry permit, which means  
30 that inspectors can deal with unions as both stakeholders and alleged contraveners of the Act. There are risks of corruption, misconduct and maladministration that are inherent in the provision of such robust powers to regulators and inspectors. The IBAC report which I referred you to earlier, highlights how regulatory agencies can, by the very nature of their work, in  
35 issuing licences and ensuring compliance, combined with a high degree of discretion, face particular corruption risks and increased risks of employee misconduct. These risks are heightened, where there is a lack of transparency within the organisation. Improved transparency and reporting, both of the performance and decision-making of the regulators, can assist in ensuring risks  
40 of corruption, misconduct and maladministration are identified and addressed.

It is therefore considered vital that a regulatory agency, such as Safework SA is subject to rigorous oversight, so the community can be assured they are operating to the highest standard.

45



MR LANDER: Yes.

MS STANLEY: My assessment is that Safework SA is immature in recognising the risks of corruption, misconduct and maladministration inherent in its work. It was apparent from discussions with staff, that some had difficulty recognising those risks. What was more surprising was the fact some took offence to the suggestion that inspectors might be exposed to high risks of corruption. I pause here to acknowledge that the environment in which inspectors operate is not easy. They're dealing with diverse subject matter and can be subject to pressure from external businesses and organisations which have competing interests. They may receive pressure simultaneously from PCBUs, industry bodies and unions about the ways in which they should exercise their powers. They must also deal with media scrutiny. It is difficult for inspectors to strike the right balance between maintaining a relationship with industry, while avoiding being captured by the organisation, groomed or subject to other forms of influence.

Inspectors said they felt as though they had little guidance or training to equip them with the knowledge and skills to assist them to strike that right balance. However, there is no doubt in my mind that there are corruption, misconduct and maladministration risks arising from this position. I want to talk a little bit about grooming. The main purpose of grooming is to create a favourable impression with the decision-maker. It can occur through the creation of a perceived friendship and the distribution of gifts. Grooming can lead to capture, which occurs when regulators and their staff potentially begin to align their value and actions with that of the industry they are regulating, rather than with the values and legislative purpose of the regulator. Whilst some staff in Safework SA suggested that the risk of grooming and capture was low, during the course of the evaluation many examples were provided of circumstances in which staff had been offered gifts, or otherwise thought they had been the subject of an attempt to influence. Often people who are captured, don't realise that they've been captured. The risk of grooming and capture occurring as a result of the offers of gifts and benefits is present and therefore it needs to be tightly controlled. The risk of more subtle influence is also present.

A gift or benefit can be tangible or intangible. Commissioner, you're well aware that the acceptance of gifts and benefits for South Australian public sector employees is guided by the Public Sector code of ethics, as well as the Commissioner for Public Sector Employment Guideline to gifts and benefits and there are often other related departmental policies. Safework SA inspectors are not required to record offers of gifts or benefits in the departmental gifts and benefits register. To deter such offers being made to inspectors, I recommend that Safework SA establish its own gifts and benefits policies which requires inspectors to report gifts or benefits both offered and accepted in its own register. That is, it should be reported, even if it is not

accepted. To provide the public with transparency, this register must be made publicly available at the end of each financial year.

5 In addition to the requirements all public sector employees - applicable to all public sector employees, inspectors have an obligation to declare conflicts of interest, pursuant to section 158 of the Work Health and Safety Act. Under that same section, the regulator has an obligation to give a direction to an inspector not to deal, or to no longer deal with a matter, if the regulator becomes aware that the inspector has a potential conflict of interest and the  
10 regulator considers that the inspector should not deal with the matter. Safework SA has a comprehensive conflict of interest framework. The problem is with its application. Staff commented that the application of the framework is inconsistent. There appears to be a general lack of understanding about when a real potential or perceived conflict of interest needs to be  
15 declared. The conflict of interest register contains fewer conflicts of interest than I would have expected for an organisation in which many of the staff have previously worked in the industry that they now regulate.

20 Either staff are finding it difficult to recognise the existence of the conflict, or they may be adopting their own practices to manage the conflict, without formally declaring it. Due to the discretionary nature of inspector powers, it is extremely important that conflicts of interest are closely managed. The IBAC report highlights that a key strategy to manage the risk of corruption within regulatory agencies, is to adopt a rigorous procedure with respect to the  
25 declaration of conflicts of interest, including perceived conflicts of interest and private interests. There is currently no obligation on Safework SA staff to declare their private interests until they become a real potential or perceived conflict. Along with a recommendation that all staff be trained in identifying conflicts and declaring interests, I suggest you recommend that all new staff  
30 sign a statutory declaration disclosing real, potential or perceived private interests and conflicts of interest. And that all staff, annually or within one week of a change of circumstances do the same. Such a practice would be in line with the approach now taken by Worksafe Victoria. As well as incorporating conflicts and declaring interests in to the new inspector training  
35 program, Safework SA should ensure that the current full inspectorate is adequately trained in these key areas.

40 Along with the risks inherent in the powers themselves, there are risks associated with the work practices currently adopted by the inspectorate which require addressing. While the inspectorate is clearly passionate about and dedicated to the health and safety of workers in this state, the manner in which the inspectorate currently operates, provides opportunities for significant improvement. Of particular concern is the inconsistency in practices and risk of inappropriate exercise of powers. This is influenced by team-centric work  
45 practices, the lack of understanding of the statutory powers, the lack of clear

and up to date policy documents and the differing interpretations of the relevant legislation from one staff to the other. By way of example, Safework SA has the power to issue expiation notices with respect to many offences under the Act. This expiation power could, in my submission, be a very effective tool to ensure compliance but is simply currently not being used.

I understand that the matter is being addressed by the Safework SA executive, but it stands out to me, as a clear example that the inspectorate is not aware of and utilising all of the powers at its disposal. And in my submission, a failure to exercise an available and appropriate power, can be a misuse of that power. During the course of this evaluation there have been suggestions of inspectors obtaining documents in unlawful manner, powers being exercised by new inspectors, prior to them being authorised to do so and bias towards or against certain individuals or businesses. My assessment is that a key contributor to these issues is the lack of oversight of inspector activities. I feel confident that this assessment is accurate as Mr Campbell has confirmed that an adequate risk and audit mechanism regarding the exercise of powers does not currently exist.

I note that there are some practices in place to ensure oversight, including case conferences and meetings between inspectors and team leaders conferences and meetings between inspectors and team leaders. However, when staff feel their workload is too high, it seems that these practices slip. They're also inconsistently utilised.

Throughout the evaluation it has come to my attention that management often have a great difficulty verifying the time sheets of staff. This is predominantly because the role is a fairly autonomous one and the current use of those government vehicles makes it difficult to keep track of staff movements. Staff are commonly outside head office and therefore systems to confirm start and finish times are limited. This leads to management often signing off on time sheets with a limited capacity to check their accuracy.

It is apparent that in recent times performance management has improved in some areas and that there has been an increase in the collection of statistics to make staff more accountable. There remains some resistance, however, from staff in response to the attempts to enhance oversight.

Because currently there is no audit undertaken of the use of powers, managers and team leaders indicated that they can only rely on the organisation's electronic system, InfoNET, which means they are dependent upon inspectors accurately recording the use of powers and uploading that information to the system.

A key part of an inspector's role is to conduct visits to worksites. It's during these visits that inspectors ordinarily exercise their statutory powers.

Inspectors usually attend worksites alone and it appears as though there are different approaches to the way in which site visits are conducted, particularly the thoroughness of the inspections.

5 The number of site visits and the manner in which they are undertaken is managed by and is at the discretion of the individual inspector, and although inspectors should be aiming to visit at least eight sites per week, it's difficult to monitor compliance with this. Records of site visits are noted in field  
10 notebooks, inspection reports and in the notices that might be issued on attendance.

However, the amount of information collected and the extent of the records kept in relation to site visits differs. It was observed by some staff that, due to poor record-keeping, inspectors' actions would not withstand scrutiny. The  
15 current inspection report template has limited ability to capture the specific powers which has been used during a site visit and the reason for the exercise of those powers. I raise a concern that there has been a recent shift by SafeWork SA from an electronic inspection report to a hard-copy one. I am of the view that a move back to a paper based report creates further risks rather  
20 than reduces them.

When a notice is issued at a site visit, the power exercised by the inspector is recorded in that notice. Like the approach to site visits and inspection reports, that approach to issuing notices seems to be dependent on the practice of the  
25 individual inspector.

One concern that I alluded to earlier is the pressure that inspectors experience due to the competing interests of PCBUs, industry bodies and unions. The pressure may be exerted by a PCBU in an attempt to avoid receiving a notice in  
30 circumstances where such a notice should be issued. I can imagine that the pressure could be quite substantial when the effect of the notice, if issued, could shut down a worksite or impact the PCBU's future applications submitted for government tenders. Conversely, it was suggested that some PCBUs encourage the receipt of notices because it assists them in obtaining funding to  
35 address work health and safety issues.

In summary, at present the oversight and auditing process of work practices is ad hoc and industry team dependent, which results in inconsistency and an inability to adequately track the way in which inspectors are using powers, the  
40 adequacy of site visits and the management of incidents and risk. Further, the current electronic systems are not well equipped to audit either the accessing or amendment of records or access to sensitive or personal information.

I propose that you make a number of recommendations with respect to  
45 oversight and auditing to address the risks of corruption, misconduct and

maladministration arising from the current practices of the Inspectorate. This is for the protection of the Inspectorate against unfounded complaints and so that the community can be assured that SafeWork SA is operating to the highest standards.

5

I separate my proposed recommendations with respect to oversight and auditing into four separate categories which will form what could be considered a quality assurance framework. The four categories are as follows: increased oversight and auditing capacity, team leader audit, individual audit, independent audit and annual report. The recommendations I propose adopt some of the practices adopted by interstate regulators.

10

Through the introduction of an appropriate quality assurance program that incorporates the above, the risks of corruption, misconduct and maladministration could be mitigated. For example, the use of a quality assurance program could mitigate the risk of misuse of public resources and risk of corrupt behaviour through either conflicts of interest or inappropriate exercise of powers.

15

With respect to oversight and auditing capability I make five proposed recommendations. Firstly, I suggest you recommend that two inspectors attend all site visits. I recognise that inherent in this recommendation is a serious resource question. Whilst I accept that, it is undoubtedly the case that the risks of corruption, misconduct and maladministration are significantly heightened by only one inspector attending a site visit. That risk is even greater if it's the same person attending on multiple occasions. It is more difficult to capture two people than one.

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25

Pairs should be rotated and inspectors from different teams can attend where appropriate. As mentioned in the recent IBAC report, the two-up approach could occur with different regulatory authorities. The two-up approach protects inspectors from inaccurate accusations and improves inspector safety. Inspectors may feel more confident in a pair, therefore less likely to decide not to issue a notice where such a notice should have been issued. This approach also provides an opportunity for collaboration and to learn new skills. Some staff thought it may also increase efficiency and result in better outcomes.

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It may be that the risk of corruption, misconduct and maladministration can be lowered by rotating the inspector conducting the visit, which I understand is already occurring, or limiting two-inspector site visits to certain situations, but I start the recommendation from the premise that two inspectors is better than one and if that can be achieved, it should be.

40

Secondly, or possibly in the alternative to the first recommendation, I propose to recommend the introduction of body-worn cameras for inspectors.

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5 Body-worn cameras have been trialled and implemented by other South Australian public sector agencies involved in the exercise of statutory powers, including the Department of Primary Industries and Regions SA, the Department of Planning, Transport and Infrastructure, and the South Australian Police, as well as your own agency.

COMMISSIONER: Yes, my investigators wear them.

10 MS STANLEY: Yes. Body-worn cameras have the multiple function of providing a safety mechanism for inspectors, protecting inspectors from unfounded accusations, capturing contemporaneous evidence of a worksite, reducing the risk of bribery or attempts of persuasion by PCBUs, and providing a valuable resource for the purposes of auditing.

15 In order to ensure that the auditing process is thorough and appropriate, my third proposed recommendation is that SafeWork SA ensure that inspections are accurately and appropriately recorded and inspection reports are uploaded to the InfoNET system within two business days of completing of the site visit, unless there are exceptional circumstances preventing this.

20 Inspectors are currently required to provide their inspection reports to PCBUs within two business days of completing a site visit. The purpose of the two-day turnaround time is to ensure that records on the InfoNET system remain accurate and available to all so that the auditing of records can occur in a timely fashion and any issues can be identified and addressed as quickly as possible.

25 Information included in the inspection report should be consistent, appropriate and accurate. It appears that this is currently not the case. Clear guidelines need to be put in place to outline how an inspection report should be completed and the adherence to these standards needs to be monitored. The two-day time frame for the completion of the inspection report, the provision of it to the PCBU and the uploading of it to InfoNET is double the time afforded to the Western Australian inspectors and significantly more than the 45-minute time frame provided to inspectors in Victoria.

30 In relation to the previously mentioned transition back to paper based inspection reports, it is my view that the organisation should revert back to an electronic inspection report, preferably one that is intuitive enough to speak to the electronic database InfoNET which is already in use, and can be utilised for the purpose of data collection. That is not revolutionary technology and its development will make the process of completing inspection reports easier and their value greater.

45 My fourth recommended proposal is the installation of GPS navigation into

government vehicles. This will enable the auditing of vehicle use and inspector movement, as well as assisting in ensuring time sheets are accurate and providing a safety mechanism for inspectors, particularly those working in remote areas.

5

My fifth proposed recommendation relates to the auditing capacity of software. I propose a recommendation that SafeWork SA improve the audit capacity of its electronic systems by incorporating a robust audit system into any upgrades to the existing InfoNET and job systems, as well as such a system being a prerequisite for the procurement of any future software. This recommendation will assist in deterring inappropriate access to sensitive information contained within the systems and it will allow for the identification of information that may have been improperly edited by staff.

10

15 I turn now to my recommendations relating to the team leader audit. I propose you recommend the following three processes be adopted to ensure that team leaders have an awareness of the conduct of the inspectors they manage, can provide feedback to them and ensure there is a consistent approach across not only their team but the organisation as a whole.

20

I propose you recommend that once each quarter the team leader accompany each of his or her inspectors on a site visit to assess that inspector's compliance with operational policies and procedures. This will provide on-the-spot feedback to inspectors and encourage communication between management and staff about how to meet organisational expectations.

25

Each quarter the team leader should also conduct a desktop audit by reviewing a selection of reports and notices for each inspector against specified standards, creating an audit report which can be discussed as part of performance management. A selection of the audit reports should themselves be audited by the team leader of a different team, with a view to ensuring consistency across teams and to help team leaders develop themselves.

30

The next stage of the audit is what I have described as the individual-level audit. The proposed recommendation is this: that SafeWork SA appoint a person to audit all the work of one randomly selected inspector over a month period. The audit would review information recorded on InfoNET and video footage from body-worn cameras, if they were to be introduced, as well as contacting PCBUs to verify and discuss site visits attended. The inspector would not be aware of the audit while it was taking place, but they would be provided with the outcome upon its completion. Again, that audit will assist in performance management.

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Finally, I suggest you recommend the establishment of an independent person or body to oversee the exercise of statutory powers by the staff of

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SafeWork SA, such as that which was established under the ICAC Act to oversee the activities of your agency. It is also possible that this could be achieved by undertaking legislative reform to further utilise the existence of the Parliamentary Committee on Occupational Safety, Rehabilitation and  
5 Compensation. That committee already has the function of keeping the administration of the Work Health and Safety Act under continuous review. Its ability to look further to the operations of SafeWork SA could be included in its functions.

10 In combination with that recommendation, SafeWork SA should prepare its own annual report, reporting on its operations, including the exercise of statutory powers, the number of internal reviews and the outcome of those reviews.

15 COMMISSIONER: That's dealt with at length, the work of inspectors. Have you made any observations in your readings which are specific to the investigation and prosecution arrangements at SafeWork SA?

20 MS STANLEY: Commissioner, I actually have little to say on that topic. The reason for that is that the investigation and prosecution arrangements were the subject of the comprehensive review undertaken last year by special counsel for the Crown Solicitor's Office. The government has accepted the 18 recommendations that resulted from that review and SafeWork SA, to my knowledge, and are already in the process of implementing them. It's my  
25 recommendation that SafeWork SA should continue that work until all of those recommendations have been fully implemented.

COMMISSIONER: And if they did, that would adequately address that matter?

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MS STANLEY: I believe that it would, yes. I turn now to make submissions on proposed recommendations with respect to the induction of new staff and training both of new staff and ongoing training with the organisation. This is the last topic I will address you on today.

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COMMISSIONER: Thank you.

40 MS STANLEY: Once new inspectors have undertaken the basic training program and are working in the field, there should be a number of systems put in place to support them and to ensure that their capabilities and skills are at an appropriate standard prior to them being responsible for the safety of workers and the identification of risk.

45 Historically there have been far longer training and induction periods than what is current practice. With advances in technology and the reality of budgetary



pressures, that's to be expected. However, to ensure both the new inspector and the community can be confident powers will be exercised appropriately, the induction process is, in my submission, vital.

5 New starters commence in their team and do not receive exposure to the manner of operations of other teams, which tends to reinforce the team divide and inconsistency between practices. In order to assist in the breakdown of the siloed nature of the organisation, to the extent it's not already happening I propose you recommend that all new staff rotate through industry teams, perhaps including into regional areas. This will prepare them for work with multiple teams, allow them to gain an understanding of different industries and create a more cohesive organisation. This rotational model has been used in the past and received positive feedback from staff.

15 There is a training program which has been recently developed and I understand it's in the process of being implemented by SafeWork SA, and to the extent that I've had the opportunity to consider it, it appears to be appropriately tailored. However, there are some key matters which relate to the risks of corruption, misconduct and maladministration which aren't currently being addressed by the training.

COMMISSIONER: Can you provide some examples of those matters?

25 MS STANLEY: I can. There are probably two particular areas that I have in mind, Commissioner. The first is the risk of capture and grooming.

COMMISSIONER: Yes.

30 MS STANLEY: Staff need training not just on acknowledging that the risk exists but how they go about identifying grooming behaviour, identifying signs of capture, and strategies to prevent it occurring. This training needs to be more in-depth than the Public Sector Code of Ethics. It has to be tailored to the unique environment in which inspectors operate.

35 Another area is training to assist inspectors to manage competing and direct pressures. This relates to the pressures that inspectors will face during site visits. The training is crucial to guarding inspectors against the risk of corruption, misconduct and maladministration. It should focus on allowing the inspectors to obtain the skills to recognise the pressures and identifying ways to deal with them when they're in the process of experiencing them.

COMMISSIONER: Yes.

45 MS STANLEY: There's probably a third matter I'd address in relation to the training for new starters. If a new starter has not had adequate training prior to

5 appointment as an inspector, there is a risk that the person will be required to attend worksites alone and undertake tasks for which they don't have the knowledge or skills to successfully complete. I understand that the current practice is to appoint a new inspector with conditions, including a condition that they attend a site with more experienced inspectors. That approach is effective and it should continue, however would be enhanced by a recommendation that team leaders review and provide feedback on all inspection reports and notices prepared by new inspectors within 48 hours, a practice which is currently used by Worksafe Victoria. This will ensure that the feedback is current, and any issues are identified immediately for corrective action to be taken.

15 With regard to ongoing training, for inspectors and investigators, there is a perception among the workforce that this has been inadequate, and certainly within the documentation there's nothing that clearly sets out how this has been occurring. Nonetheless, staff have had access to ad hoc training opportunities such as short and long term externally run courses. These opportunities have been driven, usually, by individuals and not by a role-based organisational requirement. Ongoing training supports staff to maintain knowledge and skills relating to the exercise of their duties. It's also critical for ensuring that any changes in work practices are appropriately embedded. Ongoing training based on roles, should be made available to all staff. The opportunity to learn through debriefs and mistakes also appears to be lacking.

25 To avoid the repetition of errors, it would be beneficial for the organisation to provide timely training and debriefs about learning from the outcomes of prosecutions, experiences in court, internal reviews and other feedback that the organisation receives. Commissioner, in total, I have proposed that you make 25 recommendations. There are many smaller proposed recommendations that flow from the large scale ones I've taken you through. For example, as a result of better data collection, greater auditing capacity and cohesion between educator and regulator, proactive site visits should always be conducted, not by random selection but on the basis of intelligence and risk. A clearer framework in to the use of powers should result in powers such as the issuing of expiation notices, as mentioned a highly under utilised power, becoming a vital tool in enforcement proceedings.

40 A less siloed organisation will lead to the achievement of more successful prosecutions, with Safework SA developing a collaborative approach to investigations by drawing on the expertise of both investigators and inspectors. I want to finish by emphasising that this evaluation has provided an opportunity to consider Safework SA through the prism of risk. It is identified that within the structure and the current framework of the organisation, significant risk for corruption, misconduct and maladministration is present.

45 The present of those risks and the threat of them arising shifts the focus of the

organisation from carrying out the objects of the Work Health and Safety Act to an internal focus of reacting to crises and implementing ineffectual, short-sighted solutions which do not result in overall progress. Only when those risks are at an acceptable level, is it possible for Safework SA to focus solely on exercising its functions under the Act effectively and proactively. These proposed recommendations will address those risks and lessen them to a level that is acceptable to community standards, so that Safework SA may meet the objects of the Act and protect the health and safety of workers in South Australia. That concludes my submissions.

10

MR LANDER: Ms Stanley, thank you very much for those comprehensive submissions and thank you very much for the proposed recommendations that you've made to me. I'll consider your submission of course and the recommendations that you proposed. But in doing so, I invite Safework SA management and staff, members of the public, industry groups, unions and other individuals, or any other bodies with an interest in the evaluation which I'm carrying out, to make submissions addressing those recommendations. Ordinarily, your submissions would be an end of the evaluation process, before the writing of the report, but I think it is important in this evaluation to obtain the submissions from other parties to whom I've just referred. I'd also be grateful to receive submissions which suggest any alternative recommendations to those put by Ms Stanley today.

If anyone wishes to advance any other recommendations, the focus of the recommendation should be to prevent or minimise corruption, misconduct or maladministration and should be relevant to the particular scope of the evaluation process as it has been explained. Any party or any person who wishes to make a submission, as a consequence of Ms Stanley's submissions, ought to make those submissions by 5 o'clock on Friday, 21 September 2018. I should ask that the ICAC website provide the email address and postal address to which those submissions can be provided. I intend to finalise the report about this evaluation and provide it to the President of the Legislative Council and the Speaker of the House of Assembly in the next few months. Again, Ms Stanley, I'm very grateful for the submissions that you've made and the time that you've put in to those submissions. Thank you very much.

**MATTER ADJOURNED AT 3.25 PM ACCORDINGLY**